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FISCAL IMPACT STATEMENT

LS 7831

BILL NUMBER: SB 506

NOTE PREPARED: Apr 14, 2003

BILL AMENDED: Apr 10, 2003

SUBJECT: Probation User's Fees.

FIRST AUTHOR: Sen. Meeks C

FIRST SPONSOR: Rep. L. Lawson

BILL STATUS: As Passed - House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

(A) It permits a clerk to collect a credit card service fee from a person who uses a credit card to make a transaction with the clerk. It specifies that the credit card service fee is in addition to the amount of bail set by the trial court.

(B) It requires the county fiscal body to establish a salary schedule for probation officers, and permits the county fiscal body to make appropriations from the county supplemental juvenile probation services fund and the county supplemental adult probation services fund to supplement the salaries of probation officers.

(C) It imposes an administration fee for each person placed on probation in a juvenile or adult court. It requires the administration fee to be collected before any other probation user fee.

(D) It allows a probation department to: (1) receive payment for fees by credit card; and (2) petition a court to impose or increase probation fees if the financial position of a person changes while the person is on probation.

(E) It allows a court to: (1) enforce an order to pay probation user fees by lien or garnishing of wages; (2) impose an increased probation user fee in certain circumstances; and (3) issue an order preventing a person from receiving a driver's license or permit if the person is delinquent in payment of probation fees.

(F) It provides up to 3% of probation fees collected to the clerk's record perpetuation fund and up to 3% to the city or county general fund.

(G) It provides that if the probation fees collected are insufficient to meet the minimum compensation requirements adopted by the Judicial Conference of Indiana for probation officers salaries, a county council is not required to comply with the minimum compensation requirements, but may supplement the salaries from the general fund.

(H) It provides that the Clerk of the Circuit Court is a claimant agency for purposes of setting off state tax refunds against delinquent debt.

Effective Date: July 1, 2003.

Explanation of State Expenditures: *Provision E(3):* The number of probation violators who do not pay their probation user fees is a subset of the number of probationers who have their probation revoked for a technical violation. (A technical violation occurs when a probationer does not comply with the conditions and behaviors to which the individual agreed when being placed on probation. The violation is not for committing a new crime.)

During CY 2001, the number of adult felons and misdemeanants who had their probations revoked due to a technical violation was 8,350. Of these, the estimated percentage who intentionally failed to pay user fees was not able to be determined.

This provision allows the sentencing court to issue an order to the Bureau of Motor Vehicles to not issue a license *if* the technical violator's license is already suspended. The number of technical violators who have suspended licenses is not known. The Bureau of Motor Vehicles would likely be able to absorb this task with their current budget and staffing levels.

Explanation of State Revenues: *Provision J:* The Department of Revenue may charge the claimant agency 15% of any revenue collected. The Department would be required to bill the clerk's office to receive the revenue. (See *Explanation of Local Revenues.*)

Explanation of Local Expenditures: (Revised) *Provisions B and G:* Any changes in county expenditures for probation officer salaries will depend on the fiscal conditions of the county and if different arrangements are made by the county fiscal body as opposed to the court which employs the probation officers.

Under current law, the court which employs probation officers has sole authority to establish the salaries of probation officers as long as the salaries meet the minimal standards set by the Indiana Judicial Conference. Under this bill, the county fiscal body would adopt a salary schedule in consultation with at least one judge and at least one probation officer. The salary schedule would be required to meet the minimum compensation requirements of the Indiana Judicial Conference. This bill would allow the county council to increase probation officer salaries to comply with the salary schedule set by the Indiana Judicial Conference but would not oblige the county to comply with the Conference's minimum standards if fee revenues are not sufficient to allow the minimum requirements of the salary schedule to be met.

In CY 2001, counties employed an estimated 1,125 full-time and part-time probation officers and supervisory staff and spent \$35.2 M on salaries for these individuals. Probation user fees are to be used to cover a portion of the salaries of probation officers. In CY 2001, counties collected \$12.5 M in probation user fees, representing 35% of salary expenditures for probation officers.

Provision D and E may require additional court hearings. The added cost from these hearings, if they occur, is likely to be minimal. Allowing a person to pay by credit card may increase expenditures for probation departments if by law, county agencies are not permitted to pass on the vendor costs to the person on probation.

Explanation of Local Revenues: (Revised) *Provision A - Allows courts to recover transactions costs:* Currently there is no legal barrier for court personnel accepting credit cards to pay for fees, penalties, and other monetary charges assessed by a court. However, court personnel are not currently permitted to pass along the transaction charge for the use of a credit card to the person paying with a credit card.

This provision would permit a court to collect the transaction charge when a payment is made by credit card. This transaction charge is generally part of the negotiated contract associated with accepting credit card payments. Vendor's fees depend on negotiated contracts as well as the amount of each transaction.

Consequently, the fiscal impact of this provision depends on local action and the negotiated fee.

Provision C adds a \$100 fee for administrative costs for adult felons and juveniles and \$50 administrative fee for adult misdemeanants. It also increases the monthly probation fees that persons on probation must pay. The following table shows both the existing fees and the proposed fees.

Monthly Probation User Fee				
	Current Statute		Proposed Fees	
	Min	Max	Min	Max
Felon	\$5	\$15	\$15	\$30
Misdemeanant	\$0	\$10	\$10	\$20
Juvenile	\$5	\$15	\$10	\$25

Estimated New Revenue: This provision and the added administrative fee for adult offenders on probation ***would add an estimated \$9.5 M to the supplemental adult probation user services fund.*** Both the increased juvenile probation user fees and the added \$100 administrative fee are estimated to ***generate \$1.1 M for juvenile probation officers.***

Provision D and E: The added revenues will depend on the states from which these offenders are transferred and the amount that these offenders pay in these states. During CY 2001, 822 felons were received in 79 counties from other states and 236 misdemeanants were received in 47 counties from other states..

Provision H allows the clerk of the circuit court to be a claimant agency to set off a state tax refund to pay a debt owed to the clerk.

Under current law, the clerk collects the following fees:

Code Cite	Type of Fee
IC 25-18-1-6	Distressed Sale License Fees
IC 33-19-5-1(a)	Criminal Costs Fees
IC 33-19-5-2(a)	Infraction or Ordinance Violation Costs Fees
IC 33-19-5-3(a)	Juvenile Costs Fees
IC 33-19-5-4(a)	Civil Costs Fees
IC 33-19-5-5(a)	Small Claims Costs Fees
IC 33-19-5-6(a)	Probate Costs Fees
IC 33-19-6-16.2	Deferred Prosecution Fees
IC 33-19-5-1(b)(5)	Drug Abuse, Prosecution, Interdiction, and Correction Fees
IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).	Alcohol and Drug Countermeasures Fees
IC 33-19-5-1(b)(7)	Child Abuse Prevention Fees
IC 33-19-5-1(b)(8).	Domestic Violence Prevention and Treatment Fees
IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5)	Highway Work Zone Fees
IC 33-19-6-16.3.	Safe Schools Fee
(IC 33-19-6-19).	Automated Record Keeping Fee
IC 33-19-5-1(b)(8).	Child Abuse Prevention Fees
IC 33-19-6-20	Late Payment Fees
IC 33-19-6-21.	Sexual Assault Victims Assistance Fees
IC 33-19-6-5	Support and Maintenance Fees for Cases Designated as Non-title Iv-d Child Support Cases in the Indiana Support Enforcement Tracking System (Issets)
IC 34-35-6-1	Fees Included in Transcript of Costs for Change of Venue Cases
IC 35-33-8.5-3.2	Bail Bond Fee

State Agencies Affected: Indiana Judicial Center.

Local Agencies Affected: Trial courts, probation departments.

Information Sources: *2001 Judicial Report, 2001 Probation Report.*

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